IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 18779 of 2007(I)

PETITIONER:

VISWANATHAN,
KALLUMMOOTTIL, KOTHAPURAM, WEST KALLADA,
KARUNAGAPPALLY.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:

1. THE REGIONAL TRANSPORT AUTHORITY,
PATHANAMTHITTA, REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, PATHANAMTHITTA.

ADDITIONAL 3RD RESPONDENT:

3. H.NAZEER, CHENCHEERAKUZHI VAKAKKU HOUSE,
SOORANADU P.O., KOLLAM.
(R3 IMPLEADED AS PER ORDER IN I.A.NO.11276/07)

BY GOVERNMENT PLEADER SHRI.BENCHAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 18779/07.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE PERMIT OF VEHICLE KL-7/R 2781.

P2. COPY OF THE APPLICATION FOR RENEWAL OF PERMIT.

P3. COPY OF THE JOINT APPLICATION DTD.27.7.06.

P4. COPY OF THE RELEVANT PORTION OF RC BOOK.

P5. COPY OF THE PROCEEDINGS DTD.8.12.06 OF R2.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.18779 of 2007

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Dated this the 20th day of August, 2007

J U D G M E N T

The petitioner is a transferee of a stage carriage permit. The permit was valid till 21.1.2006. The application for renewal was submitted on 24.12.2005 by the transferor, the additional third respondent herein. Before consideration of the said application, a joint application was submitted by the petitioner and the additional third respondent for endorsement of the transfer of the permit. However, renewal application alone was placed before the RTA on 21.8.2006 and the same was granted. Thereafter, the joint application for transfer of permit was placed before the RTA on 8.12.2006. The petitioner approached this court complaining that the transfer and renewal are not endorsed in the permit yet. Therefore, the petitioner seeks the following reliefs:

> "i) issue a writ of mandamus or other appropriate writ, order or direction to the 2nd respondent to endorse transfer of permit of Vehicle No.KL-7/R 2781 in the name of the petitioner and issue the renewed permit by endorsing the Vehicle No.KL-3/D 5139, offered by the petitioner without any delay.
>
> or in the alternative,
>
> ii) issue appropriate writ, order or direction to the 1st respondent to consider the application for transfer of permit as well as the

renewal of permit jointly in the same R.T.A. meeting, after giving notice to the permit holder as well as the petitioner."

2. A statement has been filed on behalf of the 2nd respondent, in which in paragraph 2 it is stated thus:

"2. The Registered owner along with the petitioner filed a joint application for transfer of permit on 27.07.2006. The agenda of the meeting of RTA, Pathanamthitta held on 21.08.2006 was closed on 21.07.2006. Much time was required for detailed enquiry regarding the genuineness of the joint application. Hence, the joint application could not be placed along with the renewal application before the RTA meeting held on 21.08.2006 and the joint application was placed the very next RTA meeting held on 8.12.2006. The RTA allowed the transfer of permit and proceedings issued as per Rule. But the registered owner did not produce the current records of S/C KL-07-R-2781 for endorsing the renewal of permit and transfer of permit. He submitted only a request to give him more time to produce a later model vehicle. This delay condonation request is placed before the RTA meeting held on 16.03.2007 and the RTA took the following decision. "*Heard, Rejected since the stipulated time allowed was over.*" True copy of the decision of RTA dated 16.03.2007 is produced and marked as **Annexure – I."**

3. The contention of the petitioner is that it was wrong on the part of the RTA to consider the application for renewal of permit without considering the application for transfer of permit also. According to him, both applications should have been considered together. The petitioner further submits that for renewal of permit, there is no necessity for production of current records of the vehicle. According to the learned Government Pleader, now that there is no valid permit, there is no question of transfer of the same. The petitioner further submits that he had offered a later model vehicle KL-3/D.5139 for endorsing the

renewal of permit, which is denied by the 2nd respondent in statement.

4. Whatever be the contentions of the petitioner, it remains a fact that Annexure 1 order has been passed by the RTA and without setting aside the same, the matter cannot be proceeded further. The petitioner has to challenge Annexure 1 order appropriately.

5. Of course, the petitioner submits that since Annexure 1 order has been passed not on the application filed by the petitioner, he cannot challenge the same. Petitioner's claim is that he is the transferee of the permit. If that be so, on such transfer, he would step into the shoes of the transferor with all his rights and liabilities. Therefore, I do not find any merit in the contentions of the petitioner. Even otherwise, as long as Annexure 1 order is in existence, the petitioner cannot get any relief in this writ petition. Therefore, without prejudice to the right of the petitioner to get Annexure 1 order set aside appropriately, this writ petition is dismissed.

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.